
ENVIRONMENTAL Fact Sheet



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New Hampshire's Brownfields Cleanup Revolving Loan Fund

The Small Business Liability Relief and Brownfields Revitalization Act (Brownfields Law) was signed into law on January 11, 2002. The Act amends the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) by adding Section 104(k) whereby the U.S. Environmental Protection Agency (EPA) is authorized to provide funding to eligible entities in order to capitalize revolving loan funds for eligible brownfields sites. The New Hampshire Department of Environmental Services (DES) was first selected for a Brownfields Cleanup Revolving Loan Fund (RLF) Pilot Project grant in 1999 and was awarded a subsequent grant under the Brownfields Law in 2005. New Hampshire RSA 147-F:20 grants DES the authority to administer the federally funded RLF.

The objective of the New Hampshire's Brownfields Cleanup RLF program is to ensure the availability of capital for both private and public borrowers in order to clean up and redevelop brownfields properties throughout the state. With the availability of RLF funds for low interest loans that are not otherwise available or obtainable from traditional commercial lenders, there has been a greater willingness by businesses and developers to take on the risk associated with remediation and subsequent redevelopment.

Since the inception of the RLF in 1999, DES has made eight loans totaling nearly \$3.12 million. These loans have made possible major remediation and redevelopment efforts at eight environmentally impacted properties located in every region of the state. It is estimated that these redevelopment projects will generate more than 300-750 jobs, return properties to municipal tax rolls, increase property values thus increasing property tax revenue for municipalities, and leverage approximately \$132.5 million in redevelopment costs.

WHO IS ELIGIBLE TO APPLY FOR BROWNFIELDS CLEANUP RLF LOANS?

Essentially, any person who did not cause or contribute to the contamination at the site and is one of the following is eligible to apply for a Brownfields Cleanup Loan:

- Site owners
- Site developers
- Municipalities
- Quasi-governmental organizations
- Regional councils or group of local governments
- Redevelopment agencies
- Tribal governments

WHAT SITES ARE ELIGIBLE FOR BROWNFIELDS CLEANUP RLF LOANS?

Sites Eligible for Brownfields Funding

Sites eligible for Brownfields funding must meet the definition of a “brownfield site.” The term means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

The term brownfield site also includes:

- Sites contaminated by controlled substances.
- Sites contaminated by petroleum or a petroleum product.
- Mine-scarred lands.

Sites Eligible for Brownfields Funding with a Property-Specific Determination

The following properties are generally ineligible brownfield sites unless EPA makes a property-specific determination:

- Properties subject to planned or ongoing removal actions under CERCLA.
- Properties with facilities that have been issued or entered into a unilateral administrative order, a court order, an administrative order on consent, or judicial consent decree or to which a permit has been issued by EPA or an authorized state under RCRA, FWPCA, TSCA, or SDWA.
- Properties with facilities subject to RCRA corrective action (§3004(u) or §3008(h)) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures.
- Properties that are land disposal units that have submitted a RCRA closure notification or that are subject to closure requirements specified in a closure plan or permit.
- Properties where there has been a release of PCBs and all or part of the property is subject to TSCA remediation.
- Properties that include facilities receiving monies for cleanup from the LUST trust fund.

Sites *Not* Eligible for Brownfields Funding

The following three types of properties are not eligible for brownfields funding even on a property-specific basis.

- Facilities listed or proposed for listing on the National Priorities List (NPL).
- Facilities subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to or entered into by parties under CERCLA.
- Facilities that are subject to the jurisdiction, custody, or control of the United States government.

WHAT ACTIVITIES ARE ELIGIBLE FOR FUNDING UNDER THE RLF PROGRAM?

Eligible cleanup costs that can be funded pursuant to an RLF loan include:

- Preparation of a Remedial Action Plan.
- Oversight of cleanup activities.
- Installation of fences, warning signs, or other security or site control precautions.
- Installation of drainage controls.
- Stabilization of berms, dikes, impoundments; or drainage or closing of lagoons.
- Capping of contaminated soils.
- Using chemicals and other materials to retard the spread of release or mitigate its effects.
- Excavation, consolidation, or removal of contaminated soils.
- Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants, including petroleum.

- Removal of source materials, including free product recovery.
- Containment, treatment, or disposal of hazardous materials and petroleum contamination.
- Site monitoring, including sampling and analysis, that are reasonable and necessary during the cleanup process, including determination of the effectiveness of the cleanup.
- Site assessment activities that are reasonable, necessary, and incidental to the cleanup process, such as confirmation sampling.
- Preparation of a quality assurance project plan (QAPP).
- Costs associated with meeting public participation and worker health and safety requirements, e.g., preparation of Community Relations Plans and Health and Safety Plans respectively.

Note: RLF loan recipients are required to provide a 20 percent cost share. This cost share is calculated as 20 percent of the loan principal. The cost share may be in the form of a contribution of money, labor, material or services from a non-federal source and must be incurred for eligible cleanup costs.

BROWNFIELDS CLEANUP RLF LOAN AMOUNTS

Loan amounts have ranged from \$75,000 to \$930,000. While there is no set maximum loan amount, DES must take into consideration the need to maintain the long-term availability of funds.

BROWNFIELDS CLEANUP RLF LOAN REPAYMENT TERMS

DES tailors each cleanup loan to the specific needs of the borrower and project. Interest rates have generally been fixed at 3 percent, however repayment schedules and options are negotiated with each borrower. While we seek and prefer to make short-term “bridge” style loans with five-year terms or less, in certain cases we will consider longer payment terms.

HOW TO APPLY FOR A BROWNFIELDS CLEANUP RLF LOAN

To apply for an RLF loan, the following information must be submitted to DES:

- A signed, complete application form obtained from DES.
- An environmental site assessment report that conforms to the procedures of the American Society of Testing and Materials (ASTM) E1527-05, entitled “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.”
- A description of the proposed redevelopment and future use of the property.
- Information regarding applicant’s environmental compliance history.
- A proposed budget for the cleanup project.
- All supporting information required as part of the application package.
- A non-refundable application fee of \$250. State and local governments are exempt from paying the application fee.

The New Hampshire Business Finance Authority (BFA) performs all credit analyses and reviews all proposed loan terms for prospective private RLF borrowers and provides DES with a written opinion on the risks of making the loan. The N.H. Treasury Department provides this service for potential public borrowers. The BFA or Treasury Department will request and review financial and legal records of prospective borrowers for credit assessment purposes.

This fact sheet is intended to highlight some of the key provisions of New Hampshire’s Brownfields Cleanup RLF program. For more information, feel free to contact the DES at (603) 271-2183.

Disclaimer: Information contained in this fact sheet is current as of September 2008. Statutory or regulatory changes that may occur after that date may cause part or all of the information to become invalid. If there are any questions concerning the current status of information, please contact DES at (603) 271-2183.